



THE CITY OF NEW YORK
LAW DEPARTMENT

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July 20, 2016

VIA ECF & FAX

Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Samuel Walton v. Captain Boyd, et al., 15-CV-3080 (PGG)

Your Honor:

I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, and the attorney for individually named members of the Department of Correction and Corizon Health Services (hereinafter "DOC defendants") in the above-referenced matter. In light of the Court's July 15, 2016 Order denying plaintiff's motion for appointment of counsel and resolving issues raised regarding plaintiff's deposition, DOC defendants write to respectfully request that the Court (i) grant a brief extension of time to complete plaintiff's deposition on August 1, 2016; and (ii) endorse the enclosed proposed Order to produce plaintiff and compel continuation of plaintiff's deposition under penalty of dismissal. Counsel for co-defendant Meletiche consents to this request.

As Your Honor is aware, the parties began the deposition of plaintiff, who is currently incarcerated, by video-conference link beginning on June 16, 2016. (*See* Docket Entry Nos. 68 & 69) However, due to time constraints imposed by plaintiff's correctional facility and unforeseen technical issues, plaintiff's deposition was conducted for only three hours and thirty minutes. *See* F.R.C.P. 30(d)(1)(providing for a length of 7 hours to conduct a deposition and allowing for additional time "if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination."). DOC defendants made best efforts to question plaintiff regarding the extensive allegations pled in plaintiff's Amended Complaint, which includes at least ten separate incidents involving twenty-seven individually named defendants. On June 28, 2016, DOC defendants duly noticed the continuation of plaintiff's deposition for the date of July 15, 2016 in order to question plaintiff regarding the remaining alleged incidents. However, by letter filed July 7, 2016, plaintiff requested that the Court stay the continuation of his deposition pending (1) a request for appointment of counsel and (2) issuance of a protective order limiting the scope of the continued deposition. (*See* Docket

Entry No. 68) Although the Court denied plaintiff's application by Order dated July 15, 2016, (*See* Docket Entry No. 70) this did not provide sufficient time for DOC defendants to reschedule and complete plaintiff's deposition prior to the close of fact discovery today, July 20, 2016.¹ Defendants submit that, in light of the above, a brief extension of fact discovery is warranted for the purpose of completing plaintiff's deposition. Plaintiff's correctional facility represented that plaintiff can be produced by video-conference link on August 1, 2016.

For the reasons set forth above, DOC defendants write to respectfully request that the Court (i) grant a brief extension of time to complete plaintiff's deposition on August 1, 2016; and (ii) endorse the enclosed proposed Order to produce plaintiff and compel continuation of plaintiff's deposition under penalty of dismissal. Thank you for your consideration regarding the within request.

Respectfully submitted,

/s/ Alexander Noble

Alexander Noble
Assistant Corporation Counsel

cc: **VIA U.S. MAIL**
Samuel Walton
14-A-2215
Five Points Correctional Facility
Route 96
P.O. Box 119
Romulus, NY 14541

¹ As a separate issue, DOC defendants forwarded plaintiff a copy of the transcript of his June 28, 2016 deposition pursuant to the Court's July 15, 2016 Order to allow plaintiff to "identify, by page and line number, the portions of his deposition that should be sealed." (*See* Docket Entry No. 70)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SAMUAL WALTON,

Plaintiff,

-against-

CAPTAIN BOYD, ET AL.,

Defendants.

x

**ORDER TO PRODUCE
PLAINTIFF VIA
VIDEO AND COMPEL
CONTINUATION OF
PLAINTIFF'S
DEPOSITION**

15-CV-3080 (PGG)

Upon the application of defendants for leave to continue deposition of plaintiff, Samuel Walton, an inmate, the Court having granted leave for the continuation of Plaintiff's deposition pursuant to Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure:

IT IS HEREBY ORDERED: that (1) the Warden or other official in charge of Five Points Correctional Facility produce inmate Samual Walton, DIN # 14-A-2215, for the continued taking of his deposition by defendants' attorney via video conference link on Monday, August 1, 2016 commencing at 9:00 a.m., until completion, or in the alternative, on such dates and times as may be adjourned; and (2) inmate Samuel Walton appear in such place as designated by the Warden or other official in charge of Five Points Correctional Facility so that his deposition shall be continued, under penalty of dismissal.

Dated: New York, New York

SO ORDERED

HON. PAUL G. GARDEPHE, U.S.D.J.